

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

DANIEL CAMILO TIBADUIZA-OLARTE,  
Defendant.  
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**ORDER**

17 CR 294 (VB)

2/9/24

Pending before the Court is defendant Daniel Camilo Tibaduiza-OlarTE's motion for a reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2) and U.S.S.G. § 1B1.10, based on Amendment 821 to the Sentencing Guidelines. (Doc. #44). Amendment 821 took effect on November 1, 2023, and applies retroactively in this case.

For the following reasons, the motion is GRANTED.

At sentencing on September 19, 2017, the applicable guideline range was 108-135 months' imprisonment, based on a final offense level of 31 and a criminal history category of I. The Court imposed a sentence of 108 months' imprisonment, to be followed by three years of supervised release.

Amendment 821 created a new Section 4C1.1, which provides for a two-level decrease in offense level for defendants with zero criminal history points who meet specified eligibility criteria. Defendant has zero criminal history points and otherwise meets the eligibility criteria in Section 4C1.1. Therefore, defendant's amended offense level is 29, at Criminal History Category I, and his amended guideline range is 87-108 months' imprisonment.

By letter dated February 8, 2024, the government agrees the amended guideline range is 87-108 months, and does not oppose defendant's motion. (Doc. #45).

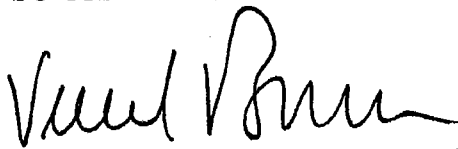
Having considered the sentencing factors set forth in 18 U.S.C. § 3553(a), the Court concludes a reduction of the term of imprisonment to the low end of the amended guideline range is fair and appropriate. Although the offense was serious, defendant has served nearly seven years of his prison sentence, and the mitigating factors that warranted a sentence at the low end of the original guideline range, including the strong support of defendant's family, still apply. Moreover, during the period of his incarceration, defendant has not incurred any disciplinary infractions and has successfully participated in multiple education programs and work assignments. Finally, any public safety concerns posed by defendant's early release are adequately mitigated by the fact that defendant is highly likely to be deported upon the completion of his prison sentence, and, if not, he will be closely supervised by the Probation Department for three years.

Accordingly, defendant Daniel Camilo Tibaduiza-OlarTE is resentenced to 87 months'

imprisonment. All other components of the sentence remain as originally imposed on September 19, 2017.

Dated: February 9, 2024  
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti  
United States District Judge